

AMENDED IN SENATE JUNE 3, 2010
AMENDED IN ASSEMBLY MARCH 25, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1720

Introduced by Assembly Member Galgiani

February 2, 2010

An act to amend Section 1103.22 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1720, as amended, Galgiani. Buyer's Choice Act.

Existing law generally regulates the transfer of real property, and imposes specified obligations on a seller of real property. Existing law authorizes a mortgagee or beneficiary under a deed of trust to sell property securing the mortgage or deed of trust at a foreclosure sale under certain circumstances. Existing federal law prohibits a seller of property that will be purchased with the assistance of a federally related mortgage loan from requiring the buyer to purchase insurance from a particular company.

Existing law, the Buyer's Choice Act, prohibits, until January 1, 2015, a mortgagee or beneficiary under a deed of trust who acquired title to residential real property improved by 4 or fewer dwelling units at a foreclosure sale from requiring, directly or indirectly, as a condition of selling the property, that the buyer purchase title insurance or escrow services in connection with the sale from a particular title insurer or escrow agent. These provisions do not prohibit a buyer from agreeing to accept the services of a title insurer or an escrow agent recommended

by the seller if written notice of the right to make an independent selection of those services is first provided by the seller to the buyer.

This bill would *expand the act to apply to property acquired at a short sale. The bill would* require a seller to provide to a buyer a specified form containing a statement of the Buyer's Choice Act notification requirements, as specified. The bill would also revise the act to prohibit a seller from conditioning approval of the sale of residential real property acquired at *a foreclosure sale or short sale* on the selection made by the buyer as indicated on the Buyer's Choice Act form, as specified. *The bill would specify the actions that may be taken by a seller when a buyer submits an offer, or selects service providers, and the actions that may be taken by a buyer when a seller accepts the buyer's offer.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1103.22 of the Civil Code is amended
2 to read:

3 1103.22. (a) (1) (A) A seller of residential real property
4 improved by four or fewer dwelling units shall not require directly
5 or indirectly, as a condition of selling the property, that title
6 insurance covering the property or escrow service provided in
7 connection with the sale of the property be purchased ~~by the buyer~~
8 from a particular title insurer or escrow agent. *The seller shall*
9 *disclose the rights described in paragraph (2).*

10 (B) *This section does not apply to subsequent sales of residential*
11 *real property that occur when the property is not in the foreclosure*
12 *process.*

13 (2) This section does not prohibit a buyer from agreeing to
14 accept the services of a title insurer or an escrow agent
15 recommended by the seller if the seller provides the following
16 form to the buyer, as a separate statement, in not less than 14 point
17 boldface type:

18
19 CALIFORNIA "BUYER'S CHOICE ACT" NOTIFICATION
20

Sellers Must Notify Buyers of Residential Real Property Acquired at a
Foreclosure Sale *or Short Sale* That They Have a Choice of Escrow and Title
Service Providers

No seller of residential real property containing four or fewer dwelling units
shall require directly or indirectly, as a condition to selling the property, that
title insurance covering the property or escrow services provided in connection
with the sale of the property be purchased by the buyer from any particular
title or escrow provider. This section does not prohibit the buyer from agreeing
to accept the services of a title or escrow provider recommended by the seller
if the California "Buyer's Choice Act" notification is first provided by the
seller to the buyer. (Section 1103.20 of the Civil Code)

THE BUYER MAY SELECT HIS OR HER OWN TITLE AND ESCROW
SERVICES FOR USE IN COMPLETING THE PURCHASE OF PROPERTY
AT THIS ADDRESS OR PARCEL NUMBER:

TITLE COMPANY CHOICE _____
ESCROW COMPANY CHOICE _____
or SELLER'S CHOICE OF PROVIDERS _____ (Initials)

Other related disclosures:

Date _____
Buyer _____ Buyer _____

(This form is to be signed by Buyer and sent to the Seller)

RECEIPT ACKNOWLEDGED AND AGREED

SELLER: _____ DATE: _____

1 (A copy of the Seller's signed acknowledgment to be provided to Buyer)

2
3 ~~(3) A seller may not condition approval of the sale of residential~~
4 ~~real property acquired at foreclosure sale on the selection made~~
5 ~~by the buyer as indicated on the form described in paragraph (2).~~

6 *(b) If a buyer submits the offer without identifying service*
7 *providers or without identifying or including costs, the seller may*
8 *do either of the following:*

9 *(1) Accept the offer from the buyer and then provide the Buyer's*
10 *Choice Act notification.*

11 *(2) Reject the offer or provide a counter offer, or both.*

12 *(c) If the seller accepts the offer, the buyer shall complete the*
13 *Buyer's Choice Act notification and indicate either of the*
14 *following:*

15 *(1) That the buyer has selected the buyer's preferred service*
16 *providers and is returning the form to the seller.*

17 *(2) That the buyer will accept the seller's service providers.*

18 *(d) If the buyer has selected service providers, the seller shall*
19 *do either of the following:*

20 *(1) Accept the buyer's selection.*

21 *(2) Opt to negotiate for service providers by providing buyer*
22 *incentives to accept the seller's providers, such as offering to pay*
23 *all or a significant portion of the settlement services costs.*

24 ~~(b)~~

25 *(e) For purposes of this section:*

26 *(1) "Escrow service" means service provided by a person*
27 *licensed pursuant to Division 6 (commencing with Section 17000)*
28 *of the Financial Code, or exempt from licensing pursuant to Section*
29 *17006 of the Financial Code.*

30 *(2) "Seller" means a mortgagee or beneficiary under a deed of*
31 *trust who acquired title to residential real property improved by*
32 *four or fewer dwelling units at a foreclosure sale or short sale,*
33 *including a trustee, agent, officer, or other employee of any such*
34 *mortgagee or beneficiary.*

35 *(3) "Title insurance" means insurance offered by an insurer*
36 *admitted in this state to transact title insurance pursuant to Chapter*
37 *1 (commencing with Section 12340) of Part 6 of the Insurance*
38 *Code.*

39 ~~(e)~~

1 (f) A seller who violates this section shall be liable to a buyer
2 in an amount equal to three times all charges made for the title
3 insurance or escrow service. In addition, any person who violates
4 this section shall be deemed to have violated his or her license law
5 and shall be subject to discipline by his or her licensing entity.

6 ~~(d)~~

7 (g) A transaction subject to this section shall not be invalidated
8 solely because of the failure of any person to comply with any
9 provision of this act.

O